



City of Miami Springs, Florida

The Miami Springs City Council held a **REGULAR MEETING** in the Council Chambers at City Hall on Monday, November 9, 2009, at 7:00 p.m.

1. Call to Order/Roll Call

The meeting was called to order at p.m.

The following were present:

Mayor Billy Bain
Vice Mayor Dan Espino
Councilwoman Jennifer Ator
Councilman Bob Best
Councilman George V. Lob

Also Present:

City Manager James R. Borgmann
Assistant City Manager Ronald K. Gorland
City Attorney Jan K. Seiden
Chief of Police Peter G. Baan
Finance Director William Alonso
City Planner Richard E. Ventura
City Clerk Magalí Valls

2. Invocation: Mayor Bain offered the invocation.

Salute to the Flag: The audience participated.

3. Awards & Presentations:

A) Presentation by Laney Silver of the CATS Organization to Request a Donation

Laney Silver, Director of Caring About the Strays (C.A.T.S.), stated that the volunteer non-profit organization had been working to reduce the number of stray cats and dogs in Miami Springs for almost twelve years. Their primary mission is to reduce the number of abandoned animals. She explained that the only effective way to control the population of unwanted animals is through an aggressive spay/neuter program coupled with adoption services.

Ms. Silver said that the C.A.T.S. organization is well respected in the community and their accomplishments include sterilization of more than 5,000 homeless animals, the adoption of 2,200 cats and dogs, fundraising events, donations from pet food manufacturers, and alliances with other rescue groups. All funding has come from private donors; volunteers are not paid and all funds go towards the veterinary bills.

Ms. Silver stated that the economic downturn had affected the organization because donations are down and more people are unable to care for their pets financially, which means they are being abandoned in the community. C.A.T.S. is not asking for funds to feed community animals or to take care of sick or injured animals; they are asking for funding for a mobile spay/neuter van to come to Miami Springs once a month. The van is equipped to handle up to forty surgeries per day, which is the most cost effective way to stop breeding on the streets and limit the size of the colonies. The van could be operational in Miami Springs in early December. This would be a great service to the residents who cannot afford sterilization for their pets.

Ms. Silver asked Council for their support of the spay/neuter van, which would benefit the community by reducing the number of breeding animals on the streets.

Clair Gurney-Moore of 3770 N. W. 59th Avenue stated that she had adopted two cats from the C.A.T.S. organization and she has called the organization numerous times when she has found stray animals. She hopes that Council will support C.A.T.S. because they do a great job.

Theo Karantsalis of 289 Shadow Way called C.A.T.S. when he found a litter of cats in his back yard and they made sure that each kitten was spayed or neutered and adopted. He wants the City and the community to support Laney Silver's mission.

Ernest Culp of 1000 Hunting Lodge Drive adopted an abandoned dog from the C.A.T.S. organization. He explained how hard the volunteers work to take care of stray dogs and cats.

Susan O'Neal of 581 DeLeon Drive said that she was embarrassed by the fact that the City had not supported Ms. Silver and the C.A.T.S. organization in the past because she has worked diligently for many years. She hopes that the City will do the right thing by supporting the organization.

Councilman Best thanked Ms. Silver for her support of the C.A.T.S. organization. He said that Council is faced with many issues of human substance and this request is different. He knows that the County has cut back their budget for animal services, which does not help the problem in Miami Springs. He is aware that there is a lot of community support for the organization and he would like to find a way to help.

Vice Mayor Espino stated that C.A.T.S. provides a valuable service to the City that is not supplied by the County. He found two stray dogs and Ms. Silver offered to assist. He said that C.A.T.S. does a service for the entire community that everyone benefits from.

To answer Councilman Lob's question, Ms. Silver explained that the mobile van only spays and neuters cats, but they are willing to help people who have dogs by coordinating a low cost spay/neuter option at a facility in North Miami.

Councilwoman Ator said that she met Ms. Silver many years ago and she is aware of the great work she does. She would have liked the request to have been presented to Council when they were planning the budget, which would have made it easier for Council. She asked what dollar amount is involved.

Ms. Silver explained that forty cats at \$45.00 per cat would be \$1,850 each day the mobile van comes to the City.

To answer Mayor Bain's question, Ms. Silver clarified that the mobile van service would only be for Miami Springs.

Mayor Bain asked Ms. Silver if there would ever be a solution to the problem because there will always be more cats.

Ms. Silver felt that a City mandatory spay/neuter ordinance would help solve the problem.

Mayor Bain said that Ms. Silver works around the clock. He was concerned that Miami Springs will become a haven for stray cats once people are aware of the program. He would agree to support the mobile van on a trial basis.

Ms. Silver said that she would place a notice in the River Cities Gazette to alert the residents that they could make reservations for the mobile van service and the C.A.T.S. volunteers could trap stray cats to make up the difference. The van would need a facility that has electricity like one of the local clubs.

To answer the Mayor's question, Ms. Silver said that if there are pregnant cats in a colony they will be spayed and the pregnancy will be terminated. She manages the colonies to see if new cats show up and the colonies are currently down in numbers.

Councilman Lob asked Ms. Silver if she would be willing to report back to Council if funding is approved.

Ms. Silver offered to provide a report showing where the animals came from that were spayed or neutered.

Mayor Bain asked Council for their recommendations.

Councilman Lob suggested that the City Manager could set a timetable for the mobile van. He agreed that it should be approved on a trial basis for two or three months the first year. He would like to set a schedule and acquire more information on the cost of the program.

Councilman Best stated that his concern was that they would be in the same situation after three months. He asked if two months would be more appropriate.

Ms. Silver said that once a month for three months would be preferable. They will come back to Council with a report.

Vice Mayor Espino suggested that Ms. Silver could talk to the City Manager and come back to Council with a complete proposal. There is favorable support, but Council needs the details.

Councilman Best moved to approve \$1,850 for one event with a report to Council to follow. Councilwoman Ator seconded the motion.

Mayor Bain explained that Council would be approving the first event on a trial basis, with a subsequent report to Council. Ms. Silver and the City Manager will prepare a proposal for future events.

Councilman Best clarified for Mayor Bain that was exactly the intent of his motion.

On roll call vote the motion was unanimously carried.

(Agenda Item 3C was presented at this time)

B) Presentation by Bill Sprague, Construction Manager, Regarding Construction Costs of the New Community Center

Bill Sprague, Community Center Construction Manager, presented a list of priorities for the completion of the project. He explained that the general summary lists items that are forth coming or were suggested for the facility.

Mr. Sprague felt that the energy management system is the most important item because it will control the building lights and mechanical system during the day and night and should there be a problem, it is monitored and reported. The system can be set so that the temperature is reduced in the evening, while the humidity is controlled, and the temperature changes back in the morning. The lights can also be controlled so that they are not on all night.

Mr. Sprague estimated that the energy management system would pay for itself in five years. It is important for the gymnasium floor to keep the climate in the building at a constant temperature and humidity.

To answer Mayor Bain's question, Mr. Sprague responded that the energy management system has a one-year warranty, including parts and labor, and training is included for the facility manager. Link was asked to find two or three companies and Mechanical Systems and Controls is determined to be the best.

Mayor Bain suggested negotiating or purchasing a two-year warranty.

Mr. Sprague stated that the security monitoring and alarm system will alarm the outside doors and the Police Department and Administration would be notified if there is something wrong. The closed circuit television controllers can be monitored by Staff throughout the building in various locations. There are four cameras proposed for the gymnasium.

Mayor Bain expressed his disapproval of using cameras due to privacy issues.

Mr. Sprague explained that the cameras would not be in every room, only selected areas. Some cameras will monitor the building entrances outside.

The generator enclosure is an item that will complete the entire generator package, according to Mr. Sprague. At the beginning of the project a limited generator was considered and going into the project, the generator requirements were expanded. The generator will power all necessary functions of the building to keep it operational during a power failure, including air conditioning.

To answer Councilman Lob's question, Mr. Sprague clarified that the building was designed as an emergency shelter after a disaster. It could be a central location for residents to sleep or receive food.

Councilwoman Ator said that the emergency generator would not power the building at 100% capacity and it might not be sufficient to house a large number of people.

Mr. Sprague explained that there is not enough room on the site to house a generator large enough to power the entire facility. The elevator to the second floor was added to the generator requirements.

Mr. Sprague recommended purchasing a new lighted flag pole for the site. The overall height is 33-feet and it will handle two or three flags.

There were recommended theatre changes to move walls and enclose areas to meet the Artistic Director's request, according to Mr. Sprague. He presented an estimate of \$5,500.00 for the theatre design changes.

To answer the Mayor's question, City Manager Borgmann said that he felt the recommended theatre changes were necessary.

Mr. Sprague explained that all of the recommended items could have been purchased out of the contingency, but the unforeseen items, including the water and gas lines, electrical, and asbestos removal depleted the contingency.

Mr. Sprague reported that the demolition of the existing recreation facility began today and it would be completely demolished by the end of the week. Construction is on schedule and moving forward.

City Manager Borgmann clarified that \$1,060,000 remains in the reserve to be used as Council sees fit. The items presented tonight could be funded from the reserve or there might be sufficient funds from the additional dollars that were received from the state and federal government.

Mr. Sprague stated that the total estimated cost for the additional items is \$130,000, which should remain constant unless there is an additional recommendation for the project.

City Manager Borgmann stated that the project total was \$6.2MM and approximately \$6.5MM was received considering the proceeds from the General Obligation Bond, grants from Commissioner Sosa and the state and federal grants. He assured Council that the project is well funded.

Councilman Best moved to approve an expenditure of \$130,000 to cover additional expenses. Councilman Lob seconded the motion, which carried unanimously on roll call vote.

C) Status Report on the Construction of the Miami Springs Library by Miami-Dade County Representatives

José Camero from GSA, Miami-Dade County, introduced representatives from the Miami-Dade County Public Library. He said that the contractor was retained and the notice to proceed was given on July 21, 2008 for 270 calendar days. Due to additional scope of work and unforeseen conditions, the contractor requested 190 calendar days, 130 of which were approved and the last request was not approved. The completion date was to be August 25, 2009 and after numerous meetings, it was in the best interest of the Library to terminate the contractor and go after the surety company.

Mr. Camero explained that the surety company is in the discovery phase, which means that they are investigating what happened with the contractor. There are three options: 1) the surety company may step in and complete the job, 2) they might hire a general contractor or the same contractor to finish the job, or 3) they may pay out the bond and the County will finish the job.

Mr. Camero said that there is no completion date at this time, but he wanted the City to know what was going on.

Councilman Lob asked how long the discovery stage normally lasts.

Mr. Camero responded that the discovery phase normally takes a couple of months and the process began three weeks ago. The library is 65% complete and if a good contractor steps in it would be finished in a couple of months.

Vice Mayor Espino was concerned that an outside contractor would not want to step in and finish another contractor's work due to the liability. The surety company may have no choice other than to rehire the same contractor to continue the process. He asked if this option could be eliminated because the community is very dissatisfied with the situation.

Mr. Camero said that he understood the situation, they expressed their feelings with the surety company and they have hired another contractor to help with the process.

To answer Councilman Best's question, Mr. Camero assured him that funding is available to complete the project.

Mayor Bain asked Mr. Camero to come back and give another update in six months.

Miami Herald Article

Vice Mayor Espino mentioned that the Miami Herald published an opinion article that was unfounded and unsubstantiated. He composed a response letter to the Editor and welcomed Council to join with him in signing the letter. He continued to read the letter into the record.

Vice Mayor Espino felt that the writer should have done more research or called the Administration or elected officials who could have provided countervailing information that would have shown the exact opposite of what the article said. He welcomed Council to join with him and sign the letter if they wished.

Mayor Bain agreed that Vice Mayor Espino was entitled to send the letter.

Councilwoman Ator agreed with Vice Mayor Espino that it was a poorly written column, although it was not a news article.

Vice Mayor Espino stated that it might have been an opinion column, but even so there were judgments made that were inaccurate or contained incomplete information.

Councilman Best said that he would support Vice Mayor Espino by signing the letter, which was very well written.

4. Open Forum:

Movie Night

Susan Keedy, Priest of All Angels Episcopal Church, 1200 Heron Avenue, stated that they were sponsoring a community "Movie Night" on the third Friday of the month for six months. She said that the event is well attended with approximately 250 people on one occasion and a lot of positive feedback was received from the residents.

Reverend Keedy requested funding for the community policing of the event on Friday, November 20th at the Circle. She would like to find out the procedures for applying for grant money.

Mayor Bain stated that last year the City sponsored two events and he suggested asking for the business community to assist.

Reverend Keedy explained that the business owners were not able to provide funding, especially during the hard economic times.

Mayor Bain suggested that Reverend Keedy could meet with the City Manager and Council could then consider the request as an agenda item for the November 23rd Regular Meeting.

Skate Park

Michael Gavila of 684 Morningside Drive stated that he is in favor of building the skateboard park at the tennis court location and relocating the tennis courts to the Country Club.

Movie Night

Bill Tallman and Mason Tallman of 901 Falcon Avenue came forward to speak in favor of the request for funding the Movie Night by Reverend Keedy.

5. Approval of Council Minutes:

5A) 10/26/2009 – Regular Meeting

Minutes of the October 26, 2009 Regular Meeting were approved as written.

Councilman Best moved to approve. Councilman Lob seconded the motion which was carried 5-0 on voice vote.

6. Reports from Boards & Commissions:

6A) 10/12/2009 – Board of Appeals – Minutes

Minutes of the October 12, 2009 Board of Appeals meeting were received for information without comment.

6B) 10/14/2009 – Golf and Country Club Advisory Board – Minutes

Minutes of the October 14, 2009 Golf and Country Club Advisory Board meeting were received for information without comment.

6C) 10/19/2009 – Architectural Review Board – Minutes – Special Meeting

Minutes of the October 19, 2009 Architectural Review Board Special Meeting were received for information without comment.

6D) 10/20/2009 – Education Advisory Board – Minutes

Minutes of the October 20, 2009 Education Advisory Board meeting were received for information without comment.

6E) 11/02/2009 – Zoning and Planning Board – Cancellation Notice

Cancellation Notice of the November 2, 2009 Zoning and Planning Board meeting was received for information without comment.

6F) 11/03/2009 – Code Enforcement Board – Cancellation Notice

Cancellation Notice of the November 3, 2009 Code Enforcement Board meeting was received for information without comment.

6G) 11/26/2009 – Code Review Board –Cancellation Notice

Cancellation Notice of the November 26, 2009 Code Review Board meeting was received for information without comment.

6H) 11/24/2009 and 12/22/2009 – Ecology Board – Cancellation Notice

Cancellation Notice of the November 24, 2009 and December 22, 2009 Ecology Board meetings was received for information without comment.

6I) 11/02/2009 – Board of Adjustment – Approval of Actions Taken at their Meeting of November 2, 2009, Subject to the 10-day Appeal Period

Actions taken by the Board of Adjustment at their meeting of November 2, 2009 were approved subject to the 10-day appeal period.

Vice Mayor Espino moved the item. Councilman Lob seconded the motion, which was unanimously carried on roll call vote.

Councilwoman Ator stated that the Architectural Review Board is planning to present their ideas for signage at the November 23, 2009 Regular Council Meeting.

Councilman Lob reported that the Education Advisory Board requested the repair of the swale area across from the High School entrance and the City Manager is looking into the matter. There is also a request for police presence at the schools, which he will speak to Chief Baan about. He said that the Village of Virginia Gardens and City of Hialeah might also be willing to assist.

City Attorney Seiden explained that there was a long standing policy with Miami-Dade County Public Schools and the City does not have jurisdiction over school property.

Chief of Police Peter G. Baan stated that the motorcycle units patrol the schools during the opening and closing on a daily basis and they do not go on campus unless they are specifically requested to do so by the School Board Police.

Councilman Best complimented the City Clerk's Office, specifically Suzanne Hitaffer and Marilyn Newton, for the clarity and excellent rendition of the Golf Course Advisory Board and Education Advisory Board minutes.

7. Public Hearings:

None.

8. Consent Agenda: (approved with one motion)

8A) Approval of the City Attorney's Invoice for October 2009 in the Amount of \$11,589.75

There was no discussion regarding this item.

Councilwoman Ator moved the item. Councilman Best seconded the motion, which was unanimously carried on roll call vote.

8B) Recommendation that Council Approve a Bid to Garber Ford Mercury Inc., Utilizing Florida Sheriffs Association Bid Award Announcement # 09-17-0908, in the Amount of \$69,769.00, Pursuant to Section 31.11 (E) (5) of the City Code to Purchase Two New 2010 Ford Explorers 4x2 and One New 2010 Ford Crown Victoria for the Police Department Fleet

Chief of Police Baan explained that the vehicles are replacing the two Community Policing 2002 Ford Explorers and that vehicles are normally transferred to other departments or sold at auction.

Mayor Bain suggested moving the old Ford Explorers to the Code Compliance Office because they might be more fuel efficient than the Ford Crown Victorias.

City Manager Borgmann explained that there would be a cost involved for converting the police vehicles so they can be used by the Code Compliance Department.

Chief of Police Baan clarified that conversion costs would be involved in transferring the vehicles to Code Compliance.

Councilwoman Ator moved the item. Councilman Best seconded the motion, which was unanimously carried on roll call vote.

8C) Recommendation that Council Approve a Bid to Garber Chrysler Dodge Jeep, Inc., Utilizing Florida Sheriffs Association Bid Award Announcement # 09-17-0908, in the Amount of \$23,727.00, Pursuant to Section 31.11 (E) (5) of the City Code to Purchase One New 2010 Dodge Charger Patrol Vehicle for the Police Department Fleet

There was no discussion regarding this item.

Councilwoman Ator moved the item. Councilman Best seconded the motion, which was unanimously carried on roll call vote.

8D) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$50,000, on an “As Needed” Basis, for AMA Consulting & Construction to Conduct Building and Roofing Inspections and Plan Reviews, Pursuant to Section 31.11 (E) (6) (g) of the City Code

There was no discussion regarding this item.

Councilwoman Ator moved the item. Councilman Best seconded the motion, which was unanimously carried on roll call vote.

8E) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$10,000, on an “As Needed” Basis, for M. Jurado & Associates to Conduct Mechanical Inspections and Plan Reviews, Pursuant to Section 31.11 (E) (6) (g) of the City Code

There was no discussion regarding this item.

Councilwoman Ator moved the item. Councilman Best seconded the motion, which was unanimously carried on roll call vote.

8F) Recommendation that Council Waive the Competitive Bid Process and Approve an Expenditure in an Amount not to Exceed \$30,000, on an “As Needed” Basis, for Lonsdale Associates to Conduct Structural and Civil Engineering Plan Reviews, Pursuant to Section 31.11 (E) (6) (g) of the City Code

Mayor Bain asked why a significant increase is expected this year for structural and civil engineering plan review.

City Manager Borgmann explained that the City is providing free inspections for the Community Center and the Curtiss Mansion construction and the inspectors must be paid for their services.

Councilwoman Ator moved the item. Councilman Best seconded the motion, which was unanimously carried on roll call vote.

9. Old Business:

9A) Appointments to Advisory Boards by the Mayor and Council Members

Councilman Best **reappointed** Martin Crossland to the Ecology Board for an unexpired term ending on April 30, 2012.

9B) Ordinance No. 985-2009 – First Reading (Second Time) – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 93-12, Non-Exclusive Waste Removal Franchise for Private Haulers; by Adding the Requirement of Providing Recycling Services to Multi-Family Residential and Commercial Properties in the City; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date (Tabled: 10/26/2009)

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden explained that the Administration acquired additional information and it does not appear to be harmful to require the current commercial haulers to provide recycling service. The ordinance will add a franchise condition for future franchises and it provides for notification to the City if a business decides not to have recycling service. This will assist the City in notifying the County in their enforcement efforts.

Councilwoman Ator asked how much the franchise fee is and how it is policed.

Finance Director Alonso responded that in 2002 the franchise fee was increased to 10.5% and every year the waste haulers must provide a financial statement from a Certified Public Accountant listing receipts from the City of Miami Springs. Payments are submitted monthly, along with a statement of how much revenue was collected.

Councilwoman Ator asked if there was any way to check the commercial haulers who are doing business in the City in order to make sure the City is receiving the appropriate revenue.

City Manager Borgmann explained that Code Compliance is responsible for making sure that the haulers are licensed to do business in the City. He added that the City instituted a fee against the multi-family apartment buildings of \$1.50 per month per unit to cover the cost of bulk trash pick-up.

Councilwoman Ator moved to approve the ordinance on first reading. Councilman Best seconded the motion which was carried 4-1 on roll call vote with Mayor Bain casting the dissenting vote.

10. New Business:

10A) Recommendation that Council Award a Bid for Purchasing Card Services (P-Card) to Sun-Trust Bank, Utilizing City of Venice RFP # R07-2854, Pursuant to Section 31.11 (E) (5) of the City Code; Execute the Corporate Resolution and Certificate of Incumbency Attached

City Manager Borgmann read the title of the recommendation. He explained that Finance Director Alonso had been working on this particular item and could answer Council's questions.

Finance Director William Alonso stated that most municipalities, counties and states are moving away from issuing checks and using P-Cards. Sun-Trust was selected because they have the best program that is used by most cities. There is no associated cost for the program and it will increase efficiency in how the vendors are paid and reduce staff time. In addition, the City will receive a rebate on an annual basis, which could amount to \$10,000 for the first year.

Finance Director Alonso stated that the proposal is in the initial stages and the Finance Department is developing an internal control policy for the issuance and monitoring of the cards. He explained that the P-Card is like a City credit card that is assigned to certain individuals and it can be controlled with a dollar amount or a credit card limit. The card can also be controlled by limiting the purchase to certain items, like hardware, office supplies, etc. Finance would use the card to pay vendors that are used on a monthly basis and the City would be able to pay 85% of vendors with the credit card.

Mayor Bain would like to continue with the current policy because there is control over issuing checks.

To answer Councilwoman Ator's question, Finance Director Alonso responded that approximately 300 or 400 checks are issued monthly. The P-Card system would save on postage, paperwork, staff time and issuing purchase orders.

Councilman Best asked who the cards would be issued to.

Finance Director Alonso explained that a list was developed with the names of personnel that would be issued cards if this request is approved by Council. A meeting would be set up with all Department Heads to go over the procedures of the program and finalize the list of personnel that receive cards.

To answer Councilman Best's question, Finance Director Alonso stated that the credit card company would issue a rebate annually based on usage.

Mayor Bain would like to know who would be issued cards and how they will be controlled since many of the problems with the current economy is based on controlling credit. Before approving the request he would like to review the internal policies.

Finance Director Alonso stated that he could provide the internal control for Council's review at the next meeting.

To answer Councilman Lob's question, Mr. Alonso explained that the P-Card would eliminate any other credit cards that the City is currently using. Most employees that would hold these cards already have access to cards for Home Depot and the Department Heads would be issued cards for their respective departments. The P-Card would in no way bypass the City's purchasing policies; the card simply represents a different way of paying.

Finance Director Alonso said that authorized users of the card would sign a policy that states illegal use could lead to dismissal. He added that anytime the card is used the Finance Department is notified by e-mail and can immediately tell if it is a fraudulent charge or not.

To answer the Mayor's question, City Attorney Seiden said that a person who illegally uses the card would have to be prosecuted.

Finance Director Alonso added that under the Sun-Trust agreement the City would be reimbursed by the bank for fraudulent use.

Mayor Bain stated that he could not vote on the item without reviewing the internal policy.

Councilman Best agreed with the Mayor that he would table the item pending more information.

Councilman Lob moved to table the item. Vice Mayor Espino seconded the motion which was carried 5-0 on voice vote.

10B) Resolution No. 2009-3465 – A Resolution of the City Council of the City of Miami Springs Authorizing the City to Enter into the Lease Purchase Agreement with TD Equipment Finance, Inc.; Authorizing the Proper Officers, Officials and Representatives of the City to Execute All Lease Documentation Required to Finalize the Proposed Lease Purchase; Designation of the Lease Purchase Agreement as a “Qualified Tax-Exempt Obligation”; Providing an Effective Date

City Attorney Jan K. Seiden read the resolution by title.

Councilwoman Ator asked if there is any issue with TD Bank in light of the current accusations that have been made public in the last two weeks.

City Attorney Seiden explained that the record keepers for TD Bank refused to turn over records.

City Attorney Seiden added that the documentation has been executed and the closing date is scheduled for November 12th if approved by Council. Funds will be posted with the escrow agent, which is TD Bank, while TD Equipment Finance, Inc. will be doing the transaction. The equipment being financed includes a refuse truck, trash crane, two mowers and an aerator. When the equipment is delivered to the City the Finance Director will sign certification that it has been received, the City will pay for the equipment and be reimbursed.

To answer Councilwoman Ator’s question, City Attorney Seiden explained that TD Equipment is the lessor and the City is the lessee. TD Bank is the escrow agent who will hold the funds until the transactions are finalized with the different equipment vendors.

Finance Director Alonso clarified that the first quarterly payment would be due on February 1, 2010. The Golf Course equipment would probably arrive in November or December and the sanitation truck and crane would most likely be delivered in February or March next year. The funds will be held in escrow until the transactions are finalized.

Councilman Best moved to adopt Resolution No. 2009-3465. Councilman Lob seconded the motion which was carried 4-1 on roll call vote with Councilwoman Ator casting the dissenting vote.

10C) First Reading – Ordinance No. 986-2009 – An Ordinance of the City Council of the City of Miami Springs Amending Code of Ordinance Section 150-041, R-1A District; by Adding Thereto a Provision Permitting the Conditional Construction of Porte-Cochere Structures in the Front Yard Areas of Properties in the District; Repealing all Ordinances or Parts of Ordinances in Conflict; Effective Date

City Attorney Jan K. Seiden read the ordinance by title.

Attorney Seiden stated that he prepared the ordinance to expand the porte-cochere exception provision to the R-1A District. The memorandum he prepared was mailed to every property in the R-1A District advising that Council would consider an ordinance on first reading at the City Council meeting of November 9, 2009, and if approved a second reading would be considered subsequently that would have an impact upon properties in the R-1A District.

City Attorney Seiden explained that the memorandum advised the residents that the proposed ordinance extends the porte-cochere exception provision currently available in R-1B, R-1C and R-1D Districts to properties in the R-1A District. The aforesaid exception will permit the conditional construction of porte-cochere structures in the front yards of existing home sites in the District. A copy of the proposed ordinance amendment was provided for review. Residents were encouraged to attend the Council meeting to provide comments or questions.

City Attorney Seiden advised Council that the City Clerk had prepared a second memorandum that will be mailed if the ordinance is approved on first reading.

Mayor Bain was not in favor of sending the second memorandum since no one attended this meeting to voice their comments on first reading.

Councilman Lob moved to approve the ordinance on first reading. Vice Mayor Espino seconded the motion which was carried 5-0 on roll call vote.

Council **agreed** not to resend the notice to the residents in the R-1A District advising them of the second reading of the proposed ordinance.

Terry Moreno of 979 Hunting Lodge Drive asked what would be the required setbacks for porte-cocheres in the R-1A District.

City Attorney Seiden explained that the ordinance does not deal specifically with setbacks, but with conditions upon which a porte-cochere can be constructed, and it is self explanatory.

10D) Discussion Regarding Code Amendment Proposed by the Board of Adjustment Regarding “Coverage” Issues for Rear Yards of Existing Homesites

City Attorney Seiden stated that at a recent Board of Adjustment meeting there was a case involving a rear yard construction issue and the Board asked him to present a question to Council. The ordinances are very clear in regard to impervious surfaces in the front yards, which is 50% for existing homes and 40% for new construction.

City Attorney Seiden explained that in the rear yard the lot coverage provision states that accessory structures cannot cover more than 15% of the rear yard. In most cities, the current standards provide for a lot coverage percentage for the entire lot, but since the City of Miami Springs is built out it would be impossible to deal with this provision.

Under current practices and provisions, it is possible that single-family residential sites could legally contain accessory structures, a pool and a pool deck, driveway ribbons or a driveway and concrete slabs that could virtually cover the entire rear yard area, according to Attorney Seiden. The problem is how that would affect the neighborhood and alleyways in regard to drainage. The offending issue that caused the question was that someone built a gigantic slab in the back yard. The City does not restrict slab foundations and it is not considered in the 15% provision because it is not a structure, but it does cover the ground area. He explained that swimming pools are excluded because they are counted as pervious surfaces, but the deck and a slab would count toward the percentage.

Attorney Seiden stated that Council could amend the ordinance to provide for control over rear yard deck and slab areas, which would solve the problem. Council could also send the issue to the Code Review Board for examination.

Vice Mayor Espino commented that he had seen cases come before the Board of Adjustment where the entire back yard is covered by an attached garage, pool, and concrete slab. Neighbors have complained because of the water runoff into their yards and he would certainly be in favor of amending the ordinance.

Councilwoman Ator said that she is in favor of green space, but she is concerned because pools are not considered impervious surfaces.

City Attorney Seiden added that parking is encouraged in back yards and the back yard has never received the same attention as the front yard. The slabs and pool decks are the biggest problem because two accessory structures are allowed that are controlled by the 15% limit. He suggested that slabs and decks could also be controlled by a percentage area, which would be fair and appropriate.

The City Attorney stated that the simple remedy would be not to allow slabs without permitting and this could be controlled with a percentage.

Councilman Best recommended sending the matter to the Code Review Board for their review.

To answer the Mayor's question, City Attorney Seiden explained that the current provisions apply across the board for all districts in both the front and rear yards.

Further discussion ensued regarding the coverage of rear yard areas.

City Attorney Seiden suggested that the Code Review Board could review the coverage of rear yard areas with the assistance of the Building Official.

Mayor Bain felt that the coverage of the rear yard on his property, including the pool and slab is sufficient and that is what he would recommend.

Councilwoman Ator would like the Code Review Board to understand the concerns of Vice Mayor Espino in regard to the coverage of entire rear yards.

Council **agreed** to refer the item to the Code Review Board.

10E) Council Review and Consideration of Interlocal Agreement with the Miami-Dade County Transit Agency for Federal Funding Through the American Recovery and Reinvestment Act (ARRA) of 2009 for the City to Complete Bus Enhancements, Benches and Signage; Authorization to City Manager to Execute Agreement

City Manager Borgmann stated that before the current Council was seated, the American Recovery and Reinvestment Act (ARRA) of 2009 was enacted, which is referred to as the Washington stimulus packages. The City was granted approximately \$136,000 for transit related items that could be utilized to upgrade the shuttle stops and provide additional signage or decorative benches to encourage use of the service.

City Manager Borgmann explained that there were quite a few cities of similar size that planned to use the funds for the same purpose. The County felt that because they have control over transit services and the shuttles are an ancillary use associated with them, at some point they may be forced to take them over, and they wanted to have control over those particular dollars.

The Miami-Dade County Metropolitan Planning Organization (MPO) is administering the funds and the municipalities will be charged 5% of the grant amount. The benches for all the cities will be similar and Miami Springs might be able to have decorative signage that is in theme with the Downtown.

In order to be eligible, the City must enter into an Interlocal agreement with the County, according to Mr. Borgmann. The initial document provided by the County was more than was required for the City's needs and after the City Attorney spoke with the County Attorney the document was simplified.

Councilwoman Ator stated that the net amount to the City would be \$129,484.62. She asked if there was a provision to ensure that the City would receive that amount.

City Manager Borgmann responded that the City will be advised of the unit cost for the benches and signage, including installation and the City would be able to draw from the \$129,484.62. He has no idea how many benches or signs will be needed.

Councilwoman Ator stated that the Architectural Review Board had incorporated their ideas for signage and she expects their proposal to incorporate all signage in the City. She wanted to know if the City would be forced to use the kind of signs that the County is offering.

City Manager Borgmann felt that the City would be able to use the County vendor and customize the signs to meet the City's needs. There are many provisions and specifications for utilizing the funds and it is well worth the 5% charge for the County to resolve all the issues.

City Attorney Seiden clarified that the agreement with the County does not involve the decorative signage that the Architectural Review Board is considering. It is simply directional, transit signage.

Vice Mayor Espino stated that the Architectural Review Board had mentioned that they wanted to avoid the cluttering of signs because it distracts people from the real message.

Councilwoman Ator was sure that there are plenty of locations for benches, but there is a concern of the Architectural Review Board about sign pollution and they have good recommendations for signage.

City Manager Borgmann explained that the smaller cities would have a difficult time living up to the stipulations within the fund. The County will provide a list of approved vendors to pick from.

Vice Mayor Espino asked if the funds would apply to a wrapping for the outside of the City's Shuttle like they have on some buses.

City Manager Borgmann explained that the funding might apply to a wrapping that is like a big photograph that is applied to the outside of the vehicle, since it would enhance the transit service.

Vice Mayor Espino moved to approve. Councilman Lob seconded the motion which was carried 5-0 on roll call vote.

11. Other Business:

11A) Fiscal Year 2008-2009 Fourth Quarter Budget Status Report (Unaudited)

Finance Director William Alonso presented the final report for last Fiscal Year ending September 30, 2009. He explained that the figures could change after the auditors complete their work, but he does not foresee any significant changes.

The financial dashboard shows that expenditures were 95% of budget, or a savings of approximately \$600,000, according to Mr. Alonso. Revenues were 109% due to the transfer of funds from the Water and Sewer and Hurricane Funds.

Finance Director Alonso explained that the General Fund balance is projected to increase by \$1.8MM for a total of \$8,340,322 of which portions were allocated for this year's budget or designated by Council. He said that there is close to \$6MM remaining, \$2.2MM is designated and this leaves a reserve of \$3.8MM, which is more than the recommended 25%.

Finance Director Alonso mentioned that Councilman Best had requested a line item showing the State Board of Administration (SBA) account. He explained that the total on deposit was \$187,355.90, the unrealized loss was \$84,463.72, leaving a net asset value of \$102,892.18 as of September 30, 2009.

Finance Director Alonso explained that the Golf Course deficit for the end of Fiscal Year 2009 is approximately \$(258,000), which is \$70,000 more than last year due to the downturn in the economy. The revenues were down by \$100,000 from last year and expenses were cut by \$35,000. This required a subsidy from the General Fund.

The Building and Code Division is another area showing the downturn in the economy. Last year ended with a surplus and this year there was a deficit totaling \$191,000, according to Mr. Alonso. On the positive side, the percentage of Recreation expenditures collected in fees ended the previous year at 10.8% and this year it ended at 19.1%.

Finance Director Alonso explained that he presented the highlights of the year and there will be more information when the auditors present the annual financial statements in January.

12A) City Attorney

Sexual Predator Ordinance

City Attorney Jan K. Seiden reported that several years ago almost every city in the county and state passed a sexual predator ordinance with residency requirements. As a result of the ongoing litigation between the State of Florida and the Homeless Coalition, there is a proposed ordinance that is basically a new sexual predator ordinance from Miami-Dade County and the most relevant parts refer to applicability. This article shall be applicable in all municipalities in Miami-Dade County and as of the effective date of this ordinance, all municipal ordinances in Miami-Dade County establishing sexual offender, predator residency restrictions are hereby preempted and stand repealed.

City Attorney Seiden asked Council to review a copy of the ordinance that was sent to the City at the end of October. It has a six-week requirement for first and second reading. He always anticipated constitutional issues as to whether or not individual municipalities could create more restrictive laws in regards to sexual predators when the end result is that they would be forced entirely out of the community.

Annexation

City Attorney Seiden reported that he met with the attorneys for Medley, Doral and Virginia Gardens, along with lobbyist José Fuentes to discuss annexation. Unfortunately, no one has a very good handle on why County Commissioner Barbara Jordan sponsored legislation opposing annexation.

Attorney Seiden said that Commissioner Seijas has removed herself as a primary sponsor of the ordinance and may have had discussions about moving in the other direction. The lobbyist will get in touch with the Commissioners to see if he can figure out what is going on. If the annexation issue is dead, he was asked to find out if the decision was revenue driven and by the fact that the County budget is susceptible to publicity.

City Attorney Seiden stated that there was always an understanding on the part of all cities, that if they were hit with mitigation it would be minimal and last for only a short time. If there is some way to spur interest in allowing the current four city annexation to go forward, they might consider discussing an annexation mitigation payment or schedule with the County. He was asked to draft a joint resolution opposing the legislation that puts a moratorium on annexation, which he will do and provide. The group will reconvene in a couple of weeks.

Attorney Seiden said that annexation has always been dealt with as a four city issue, and now Sweetwater has been thrown into the process. The Virginia Gardens Attorney seems to feel it is important to join Sweetwater with the other four cities. Even though Sweetwater was not involved with any of the annexation efforts over the last seven years, they filed their application in February 2008, they are farther along in the annexation process than any of the four cities. They received a positive recommendation from the Planning Advisory Board of the County and are one step away from annexation. Sweetwater is in Commissioner Diaz' district, along with the other three cities and there is bit of contention between Doral and Sweetwater that will be discussed.

If the opposition to annexation is based on a revenue issue, the likelihood of moving forward is better because it might be solved by litigation. If it is simply anti-growth, Attorney Mel Wolfe feels it was a very arbitrary for the County to lead the four cities down the annexation path and caused them to spend an extraordinary time, money and effort over the years. Litigation might be in order if the legislation is passed. The obvious drawback is that it would be an expensive process and there is no guarantee for successful litigation. They hope annexation is still in the negotiation stages and that the door has not been shut. There are a few people who need to be contacted by the lobbyist.

12B) City Manager

Veteran's Day

City Manager Borgmann reminded everyone of Veteran's Day on Wednesday, November 11th. He saluted all veterans, those who have served and those who continue to serve. City Hall will be closed.

Basin 35 - DERM Agenda

City Manager Borgmann reported that Miami Springs is on the agenda for Thursday, November 12, 2009 to go before the Department of Environmental Resources Management Quality Board to discuss the resolution of the Basin 35 issues. The Administration is preparing information through Post, Buckley, Schuh & Jernigan, Inc., as well as talking with DERM. He believes that the City's plan will get DERM approval and their recommendation to the Board. The City Attorney might need to represent the City at the 1:30 p.m. meeting.

Comprehensive Plan Amendment

City Manager Borgmann referred to the recent correspondence from the Florida Department of Community Affairs regarding the City's Comprehensive Plan Amendment, reiterating the frustration for yet another delay.

Gymnasium Demolition

City Manager Borgmann reported that demolition of the old gymnasium began today.

Thank You

City Manager Borgmann thanked local resident Ralph Leon who is with the Miami Heat marketing division for assisting fifteen families to have a better Thanksgiving, through the help of the local churches.

Turkey Donations

City Manager Borgmann stated that he had not heard from County Commissioner Sosa's office about this year's annual turkey donations.

Webcast

City Manager Borgmann reported that the Administration had been monitoring the webcast of the meeting, which looks like it is going well. This is a free service and if it works the City will go live and people will be able to log in to see the Council meeting.

Grant Application Process

City Manager Borgmann stated that the Administration will bring back the proposed process for the grant application at the next meeting. Additional information and forms were received from Grant Writer Carol Foster from people she is dealing with on the County level.

Basketball Program

Assistant City Manager Gorland said that the basketball registration currently stands at seventy-five kids of all age groups and the normal program fills up rapidly with 265 kids. There have been comments from parents and kids that they are not excited about outdoor basketball on asphalt courts. Lighting is not optimum either. There have been problems with the Recreation telephones and the Staff was not available, but the problem has been corrected. They have also tried to get more kids involved by extending the enrollment one week. To have a successful program, there should be at least four teams per age group or else it is not competitive.

Another surprise is the cost to use the outdoor court at the schools, which is \$18.75 per hour. The Administration dropped use of the Springview Elementary court and has not yet heard how much it will cost to use the indoor court at the High School, so this idea was put on hold. They are trying to reduce the amount of the fees, and at this point, it will cost approximately \$20,000 to run a program at the outdoor courts. The lighting will cost between \$7,000 to \$8,000 for the three-month period, plus the hourly cost to use the courts. This is an exceptional amount considering the number of kids interested in the program.

City Manager Borgmann explained that the cost to use the outdoor courts is related to janitorial staff and keeping the restrooms open. The original invoices were \$28.00 per hour. He wanted Council to realize that it might not be financially feasible to run the basketball program this year.

Baseball Signups

Assistant City Manager Gorland reported that the baseball program is in the early stages and they are looking for volunteers.

12C) City Council

Lions Club

Councilman Best reminded the City Manager about the garbage cans for the Lions Club for their event on Thursday.

Kenny Dayberry Plaque

Councilman Best inquired about the status of the marker in honor of Kenny Dayberry.

City Manager Borgmann responded that all four bronze plaques would be ordered.

C.A.T.S.

Councilman Best stated that one comment was made during the C.A.T.S. presentation that the request should have been made during budget time. He was glad that Council took action on this worthwhile cause and hopefully it will work for the best of everyone in the community.

Letter to the Herald

Councilman Best would like to sign Vice Mayor Espino's letter to the Herald because he made good points in defense of the City.

At the City Manager's suggestion, the Mayor and Council agreed to sign the letter.

Halloween Event

Vice Mayor Espino stated that the Halloween event was fantastic and very well attended. He displayed a photograph of his wife, god-daughter and himself who won first place in the best family costume category – "Pirates of the Caribbean".

Blessed Trinity Carnival

Vice Mayor Espino reported that the Blessed Trinity Carnival this past weekend was a great success.

Curtiss Mansion, Inc. Meeting

Vice Mayor Espino invited the Mayor and Council to attend the monthly meeting of Curtiss Mansion, Inc. on Saturday, November 21, 2009 at 9:30 a.m. at the Curtiss Mansion property. He said that the first floor roof and second floor deck are complete and the structure is almost enclosed. Everyone will be very impressed by the progress that has been made.

City Attorney Seiden suggested advertising the meeting since Council is invited to attend.

C.A.T.S.

Councilman Lob stated that he appreciates the C.A.T.S. organization and everything they do. He hopes that Council can approve everything they need so that they can continue their work.

H1N1Swine Flu Vaccinations

Councilman Lob announced that Miami-Dade County is offering free H1N1 swine flu shots to those who are qualified. He said that the vaccinations will be available at the Tamiami Fairgrounds and Miami-Dade Downtown Clinic the weekend of November 14th. He will provide the information to the City Manager to post on the City's website and Channel 77.

Halloween Event

Councilman Lob congratulated Vice Mayor Espino on his winning Halloween costume.

Mayor Bain gave credit to Councilwoman Ator for her “Wonder Woman” costume.

Tot-lot Gates

Councilwoman Ator said that there was an issue with the gates at the Tot-lot. She called Assistant City Manager Gorland and received a response with a comprehensive plan on who to contract about recreation issues. She thanked the Assistant City Manager and the Police Department for their quick response.

Prince Field Playground

Councilwoman Ator reported that with the increased use of Prince Field, the mulch at the Tot-lot has disintegrated and the area is full of dirt.

Assistant City Manager Gorland explained that the mulch is replaced for approximately \$15,000 every three years.

Councilwoman Ator asked the Administration to see if there are funds available to replace it again.

Veteran’s Day

Councilwoman Ator stated that the Daughters of the American Revolution and other Veteran’s groups need volunteers or donations for the local Veteran’s Hospital. She encouraged everyone to consider this request in light of Veteran’s Day on Wednesday, November 11th.

Commercial Recycling

Councilwoman Ator was happy that progress had been made to encourage commercial recycling. She would like to continue with the public relations component and the creation of information for the local businesses explaining how they can obtain recycling services.

Spay or Neuter Requirement

Councilwoman Ator felt that the issue of requiring animals to be spayed or neutered is interesting and she would like to know if other cities are trying to enforce the requirement. There are issues with some owners who breed their animals. She suggested contacting Laney Silver to see if more information is available.

Movie Night

Councilwoman Ator was disappointed that Council was not willing to consider Movie Night this month because it is important to the residents. She would have to abstain from any vote on the matter because her husband has been involved with the event for two years. She explained that the event would most likely be held during Daylight Savings Time when it gets dark early and she hopes that Council considers Movie Night in the future because it is an important recreation event.

City Attorney Seiden stated that as long as Councilwoman Ator did not have a pecuniary interest in Movie Night that she is entitled to vote as a citizen.

Faith's Place Golf Tournament

Mayor Bain reported that Faith's Place Autism Outreach would hold their annual golf tournament again this year and anyone interested should call former Councilman Xavier Garcia for more information.

13. Adjourn.

There being no further business to be discussed the meeting was adjourned at 10:06 p.m.

Billy Bain
Mayor

ATTEST:

Magalí Valls, CMC
City Clerk

Approved as written during meeting of: 11-23-2009

Transcription assistance provided by S. Hitaffer.